

AMENDED IN ASSEMBLY JUNE 15, 2006
AMENDED IN ASSEMBLY SEPTEMBER 1, 2005
AMENDED IN SENATE MAY 16, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 777

Introduced by Senator Soto

February 22, 2005

An act to amend Sections 31468, 31486.3, 31490.5, 31494.3, ~~31522.5, 31781.2, 31789.3, and 31789.5~~ and 31522.5 of, and to add Section 31678.4 to, the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 777, as amended, Soto. County employees' retirement.

(1) Under existing law, counties and districts, as defined, may provide retirement benefits to their employees pursuant to the County Employees Retirement Law of 1937.

This bill would include the retirement system established in San Bernardino County within the definition of a "district" for purposes of providing retirement benefits to those systems' employees, subject to resolution by the board of retirement making that provision applicable to the county.

(2) The County Employees Retirement Law of 1937 establishes noncontributory retirement plans for employees in specified counties. Existing law, upon approval by the county board of supervisors, authorizes members of noncontributory retirement plans in the Counties of Santa Barbara and Los Angeles to receive service credit for time that would not otherwise be recognized, upon payment by the member of specified contributions to the retirement fund.

This bill would clarify that the amount of those contributions payable by the member is the same as the amount payable by a member of the contributory plan, as specified. The bill would further make related and conforming changes with regard to previously purchased service.

(3) The County Employees Retirement Law of 1937 authorizes the board of retirement of ~~the~~ Orange County to appoint specified management, investment, and legal personnel. These appointees are not classified as county employees and are therefore not subject to the civil service system, but are employees of that retirement system, subject to the terms of employment determined by the board of retirement.

This bill would authorize the board of retirement of San Bernardino County to adopt, by resolution, those provisions classifying specified personnel of their respective systems as employees of the retirement system.

(4) The County Employees Retirement Law of 1937 prescribes benefits for members of county and district retirement systems subject to the act. Those benefits are based, in part, on a calculation of the member's final compensation, as defined. Management of each of those retirement systems is vested in a board of retirement, except in specified circumstances.

This bill would prohibit the governing bodies of retirement systems in Orange County and San Bernardino County from exercising specified authority to make a benefit formula applicable to employees of the retirement system unless the board of supervisors has made the formula applicable to personnel of the retirement system who are employees of the county.

~~(5) The County Employees Retirement Law of 1937 permits a surviving spouse of a member, if the member dies prior to reaching the minimum retirement age and meets other criteria, to leave the amount of the death benefit on deposit in the retirement system, as specified.~~

~~This bill would delete an erroneous cross-reference in these provisions and make other technical changes.~~

~~(6) The County Employees Retirement Law of 1937 authorizes the county board of supervisors to provide a postretirement death benefit for members of the county retirement system in an amount determined by the board, up to \$5,000, pursuant to two different sets of requirements.~~

~~This bill would revise these provisions to specify, under one set of these requirements, that the death benefit may be provided by group term life insurance, as specified, and would provide, for both sets of requirements, an optional method of calculating the cost of the death benefit.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31468 of the Government Code is
2 amended to read:
3 31468. (a) “District” means a district, formed under the laws
4 of the state, located wholly or partially within the county other
5 than a school district.
6 (b) “District” also includes any institution operated by two or
7 more counties, in one of which there has been adopted an
8 ordinance placing this chapter in operation.
9 (c) “District” also includes any organization or association
10 authorized by Chapter 26 of the Statutes of 1935, as amended by
11 Chapter 30 of the Statutes of 1941, or by Section 50024, which
12 organization or association is maintained and supported entirely
13 from funds derived from counties, and the board of any
14 retirement system is authorized to receive the officers and
15 employees of that organization or association into the retirement
16 system managed by the board.
17 (d) “District” also includes, but is not limited to, any sanitary
18 district formed under Part 1 (commencing with Section 6400) of
19 Division 6 of the Health and Safety Code.
20 (e) “District” also includes any city, public authority, public
21 agency, and any other political subdivision or public corporation
22 formed or created under the ~~Constitution~~ *constitution* or laws of
23 this state and located or having jurisdiction wholly or partially
24 within the county.
25 (f) “District” also includes any nonprofit corporation or
26 association conducting an agricultural fair for the county
27 pursuant to a contract between the corporation or association and
28 the board of supervisors under the authority of Section 25905.
29 (g) “District” also includes the Regents of the University of
30 California, but with respect only to employees who were

1 employees of a county in a county hospital, who became
2 university employees pursuant to an agreement for transfer to the
3 regents of a county hospital or of the obligation to provide
4 professional medical services at a county hospital, and who under
5 that agreement had the right and did elect to continue
6 membership in the county's retirement system established under
7 this chapter.

8 (h) "District" also includes the South Coast Air Quality
9 Management District, a new public agency created on February
10 1, 1977, pursuant to Chapter 5.5 (commencing with Section
11 40400) of Part 3 of Division 26 of the Health and Safety Code.

12 (1) Employees of the South Coast Air Quality Management
13 District shall be deemed to be employees of a new public agency
14 occupying new positions on February 1, 1977. On that date, those
15 new positions are deemed not to have been covered by any
16 retirement system.

17 (2) No retirement system coverage may be effected for an
18 employee of the South Coast Air Quality Management District
19 who commenced employment with the district during the period
20 commencing on February 1, 1977, and ending on December 31,
21 1978, unless and until the employee shall have elected whether to
22 become a member of the retirement association established in
23 accordance with this chapter for employees of Los Angeles
24 County or the retirement association established in accordance
25 with this chapter for employees of San Bernardino County. The
26 election shall occur before January 1, 1980. Any employee who
27 fails to make the election provided for herein shall be deemed to
28 have elected to become a member of the retirement association
29 established in accordance with this chapter for the County of Los
30 Angeles.

31 (3) The South Coast Air Quality Management District shall
32 make application to the retirement associations established in
33 accordance with this chapter for employees of Los Angeles
34 County and San Bernardino County for coverage of employees of
35 the South Coast Air Quality Management District.

36 (4) An employee of the South Coast Air Quality Management
37 District who commenced employment with the district during the
38 period commencing on February 1, 1977, and ending on
39 December 31, 1978, and who has not terminated employment
40 before January 1, 1980, shall be covered by the retirement

1 association elected by the employee pursuant to paragraph (2).
2 That coverage shall be effected no later than the first day of the
3 first month following the date of the election provided for in
4 paragraph (2).

5 (5) Each electing employee shall receive credit for all service
6 with the South Coast Air Quality Management District.
7 However, the elected retirement association may require, as a
8 prerequisite to granting that credit, the payment of an appropriate
9 sum of money or the transfer of funds from another retirement
10 association in an amount determined by an enrolled actuary and
11 approved by the elected retirement association's board. The
12 amount to be paid shall include all administrative and actuarial
13 costs of making that determination. The amount to be paid shall
14 be shared by the South Coast Air Quality Management District
15 and the employee. The share to be paid by the employee shall be
16 determined by good faith bargaining between the district and the
17 recognized employee organization, but in no event shall the
18 employee be required to contribute more than 25 percent of the
19 total amount required to be paid. The elected retirement
20 association's board may not grant that credit for that prior service
21 unless the request for that credit is made to, and the required
22 payment deposited with, the elected retirement association's
23 board no earlier than January 1, 1980, and no later than June 30,
24 1980. The foregoing shall have no effect on any employee's
25 rights to reciprocal benefits under Article 15 (commencing with
26 Section 31830).

27 (6) An employee of the South Coast Air Quality Management
28 District who commenced employment with the district after
29 December 31, 1978, shall be covered by the retirement
30 association established in accordance with this chapter for
31 employees of San Bernardino County. That coverage shall be
32 effected as of the first day of the first month following the
33 employee's commencement date.

34 (7) Notwithstanding paragraphs (2) and (4) above, employees
35 of the South Coast Air Quality Management District who were
36 employed between February 1, 1977, and December 31, 1978,
37 and who terminate their employment between February 1, 1977,
38 and January 1, 1980, shall be deemed to be members of the
39 retirement association established in accordance with this chapter
40 for the employees of Los Angeles County commencing on the

1 date of their employment with the South Coast Air Quality
2 Management District.

3 (i) "District" also includes any nonprofit corporation that
4 operates one or more museums within a county of the 15th class,
5 as described by Sections 28020 and 28036 of the Government
6 Code, as amended by Chapter 1204 of the Statutes of 1971,
7 pursuant to a contract between the corporation and the board of
8 supervisors of the county, and that has entered into an agreement
9 with the board and the county setting forth the terms and
10 conditions of the corporation's inclusion in the county's
11 retirement system.

12 (j) "District" also includes any economic development
13 association funded in whole or in part by a county of the 15th
14 class, as described by Sections 28020 and 28036 of the
15 Government Code, as amended by Chapter 1204 of the Statutes
16 of 1971, and that has entered into an agreement with the board of
17 supervisors and the county setting forth the terms and conditions
18 of the association's inclusion in the county's retirement system.

19 (k) "District" also includes any special commission
20 established in the Counties of Tulare and San Joaquin as
21 described by Section 14087.31 of the Welfare and Institutions
22 Code, pursuant to a contract between the special commission and
23 the county setting forth the terms and conditions of the special
24 commission's inclusion in the county's retirement system with
25 the approval of the board of supervisors and the board of
26 retirement.

27 (l) (1) "District" also includes the retirement system
28 established under this chapter in Orange County.

29 (2) "District" also includes the retirement system established
30 under this chapter in San Bernardino County at such time as the
31 board of retirement, by resolution, makes this section applicable
32 in that county.

33 SEC. 2. Section 31486.3 of the Government Code is amended
34 to read:

35 31486.3. (a) An active member governed by the provisions
36 of this article may elect, by written notice filed with the board, to
37 make contributions and receive credit under this plan for service
38 for which he or she would not otherwise be entitled to receive
39 credit pursuant to this article.

1 (b) A member who elects to receive service credit pursuant to
2 this section shall have the same purchase rights and shall
3 contribute to the retirement fund the amount that a member in the
4 contributory plan wishing to purchase the same service would
5 have to contribute, based on the rates applicable to a member of
6 the contributory plan with the same date of entry into
7 membership. Payment shall be made by lump-sum payment or by
8 installment payments over a period not to exceed 10 years, prior
9 to the effective date of his or her retirement or, if applicable,
10 prior to the date provided in Section 31485.7.

11 (c) No member may receive any service credit under this
12 section for which he or she has not completed payment pursuant
13 to subdivision (b) before the effective date of his or her
14 retirement or, if applicable, before the date provided in Section
15 31485.7. Subject to the limitations of federal law, a member who
16 has elected to make payments in installments may complete
17 payment by lump sum at any time prior to the effective date of
18 his or her retirement.

19 (d) Any sums paid by a member pursuant to this section shall
20 be considered to be and administered as contributions by the
21 member.

22 (e) As used in this section, the “contributory plan” means that
23 contributory plan otherwise available to new members of the
24 system on the election date.

25 (f) This section is not operative until the board of supervisors
26 elects, by resolution adopted by a majority vote, to make this
27 section operative in the county.

28 SEC. 3. Section 31490.5 of the Government Code is amended
29 to read:

30 31490.5. (a) An active member governed by the provisions
31 of this article may elect, by written notice filed with the board, to
32 make contributions and receive credit under this plan for service
33 for which he or she would not otherwise be entitled to receive
34 credit pursuant to this article.

35 (b) Any member who elects to receive service credit pursuant
36 to this section shall have the same purchase rights and shall
37 contribute to the retirement fund the amount that a member in the
38 contributory plan wishing to purchase the same service would
39 have to contribute, based on the rates applicable to a member of
40 the contributory plan with the same date of entry into

1 membership. Payment shall be made by lump-sum payment or by
2 installment payments over a period not to exceed 10 years, prior
3 to the effective date of his or her retirement or, if applicable,
4 prior to the date provided in Section 31485.8.

5 (c) No member may receive any service credit under this
6 section for which he or she has not completed payment pursuant
7 to subdivision (b) before the effective date of his or her
8 retirement or, if applicable, before the date provided in Section
9 31485.8. Subject to the limitations of federal law, a member who
10 has elected to make payments in installments may complete
11 payment by lump sum at any time prior to the effective date of
12 his or her retirement.

13 (d) Any sums paid by a member pursuant to this section shall
14 be considered to be and administered as contributions by the
15 member.

16 (e) As used in this section, the “contributory plan” means that
17 contributory plan otherwise available to new members of the
18 system on the election date.

19 (f) This section is not operative until the board of supervisors
20 elects, by resolution adopted by a majority vote, to make this
21 section operative in the county.

22 SEC. 4. Section 31494.3 of the Government Code is amended
23 to read:

24 31494.3. (a) Members who have elected to transfer under
25 Section 31494.1 shall be provided within 90 days of the election
26 date the cost of contributions required for that period of all
27 creditable service with the employer prior to the month for which
28 monthly contributions are to commence, as prescribed in
29 subdivision (f) of Section 31494.1, and shall deposit in the
30 retirement fund, the amount hereinafter provided in this
31 subdivision, by lump sum, or regular monthly installments, or
32 both, over the period of time determined by a resolution adopted
33 by a majority vote of the board of retirement, but in any event
34 prior to the date of application for retirement or, if applicable, the
35 date provided in Section 31485.8, the date of termination, or the
36 date of death. The amount shall equal the sum of the
37 contributions a member would have made to the retirement fund
38 for that length of time as that for which the member shall receive
39 credit as service, computed in accordance with the rate of
40 contribution applicable to the member under the contributory

1 plan, based upon entry age, and in the same manner as prescribed
2 under the plan as if the plan had been in effect during the entire
3 period of all creditable service, together with regular interest
4 thereon.

5 (b) All service previously purchased by the member pursuant
6 to Section 31490.5, if any, shall be recalculated in accordance
7 with the rate of contribution applicable to the member under the
8 contributory plan, based upon the entry age, and in the same
9 manner as prescribed under the plan as if the contributory plan
10 had been in effect during the entire period of all creditable
11 service, together with regular interest thereon. All contributions
12 paid by the member pursuant to Section 31490.5, if any, shall be
13 credited toward the amount owed under subdivision (a) and all
14 periods of service credited under the plan created by this article
15 shall be transferred to the contributory plan upon completion of
16 payment of that amount.

17 (c) Any member who applies for service credit under
18 subdivision (e) of Section 31494.1 relating to federal and military
19 service, shall be provided within 90 days of the election date the
20 cost of contribution required for that service, and shall deposit in
21 the retirement fund the amount hereinafter provided in this
22 subdivision by lump sum, or regular monthly installments, or
23 both, over the period of time determined by a resolution adopted
24 by a majority vote of the board of retirement, but in any event
25 prior to the date of application for retirement, date of termination,
26 or death. The amount shall equal the sum of twice the
27 contributions the member would have made to the retirement
28 fund for the length of time as that for which the member has
29 elected to receive credit as service, computed by applying the
30 rate of contribution applicable to the member under the
31 contributory plan, based upon entry age, to the monthly
32 compensation first earnable by the member as of the most recent
33 date of entry into the retirement system, multiplied by the
34 number of months for which the member has elected to receive
35 credit, together with regular interest thereon.

36 (d) Any member who applies for service credit under
37 subdivision (e) of Section 31494.1, relating to prior service as
38 defined in the bylaws of the board, other than qualifying service
39 under Section 31490.5, and public service other than military and
40 federal service, shall be provided within 90 days of the election

1 date the cost of contribution required for that service, and shall
2 deposit in the retirement fund the amount hereinafter provided in
3 this subdivision, by lump sum or regular monthly installments, or
4 both, over the period of time determined by a resolution adopted
5 by a majority vote of the board of retirement, but in any event
6 prior to the date of application for retirement or, if applicable,
7 prior to the date provided in Section 31485.8, the date of
8 termination, or the date of death. The amount shall equal that
9 sum of contributions the member would have made to the
10 retirement fund for the length of time as that for which the
11 member has elected to receive credit as service, calculated in the
12 same manner as prescribed in the bylaws of the board relating to
13 credit for prior service, except that such contribution shall be
14 computed by applying the rate of contribution applicable to the
15 member under the contributory plan, based upon entry age.

16 (e) This section shall be operative in a county at such time or
17 times as may be mutually agreed to in memoranda of
18 understanding executed by the employer and employee
19 representatives if the board of supervisors adopts, by majority
20 vote, a resolution declaring that the section shall be operative in
21 the county.

22 SEC. 5. Section 31522.5 of the Government Code is amended
23 to read:

24 31522.5. (a) In a county in which the board of retirement has
25 appointed personnel pursuant to Section 31522.1, the board of
26 retirement may appoint an administrator, an assistant
27 administrator, a chief investment officer, senior management
28 employees next in line of authority to the chief investment
29 officer, subordinate administrators, senior management
30 employees next in line of authority to subordinate administrators,
31 and legal counsel.

32 (b) Notwithstanding any other provision of law, the personnel
33 appointed pursuant to this section may not be county employees
34 but shall be employees of the retirement system, subject to terms
35 and conditions of employment established by the board of
36 retirement. Except as specifically provided in this subdivision, all
37 other personnel shall be county employees for purposes of the
38 county's ~~Employee Relations Resolution~~ *employee relations*
39 *resolution*, or equivalent local rules, and the terms and conditions
40 of employment established by the board of supervisors for county

1 employees, including those set forth in a memorandum of
2 understanding.

3 (c) The compensation of personnel appointed pursuant to this
4 section shall be an expense of administration of the retirement
5 system, pursuant to Section 31580.2.

6 (d) The board of retirement and board of supervisors may
7 enter into any agreements as may be necessary and appropriate to
8 carry out the provisions of this section.

9 (e) Section 31522.2 is not applicable to any retirement system
10 that elects to appoint personnel pursuant to this section.

11 (f) This section shall apply only in Orange County.

12 (g) This section shall apply to the retirement system
13 established under this chapter in San Bernardino County at such
14 time as the board of retirement, by resolution, makes this section
15 applicable in that county.

16 SEC. 6. Section 31678.4 is added to the Government Code, to
17 read:

18 31678.4. The governing body of a district as defined in
19 subdivision (l) of Section 31468 shall not elect to make a formula
20 for the calculation of retirement benefits applicable to the
21 personnel of the district appointed pursuant to Section 31522.5
22 who are employees of the retirement system unless the board of
23 supervisors has made that formula applicable to personnel of that
24 retirement system who are employees of the county.

25 ~~SEC. 7. Section 31781.2 of the Government Code is amended~~
26 ~~to read:~~

27 ~~31781.2. (a) In lieu of accepting in cash the death benefit~~
28 ~~payable under Section 31781 or 31781.01, the surviving spouse~~
29 ~~of a member who dies prior to reaching the minimum retirement~~
30 ~~age and who at the date of his death has 10 or more years of~~
31 ~~service to his credit, shall have the option to leave the amount of~~
32 ~~the death benefit on deposit in the retirement system until the~~
33 ~~earliest date when the deceased member could have retired had~~
34 ~~he lived, and at that time receive the retirement allowance~~
35 ~~provided for in Section 31765 or 31765.1 or 31765.11,~~
36 ~~whichever is applicable.~~

37 ~~(b) If, at the death of the spouse, she or he is survived by one~~
38 ~~or more unmarried children of the member, under the age of 18,~~
39 ~~the retirement allowance shall continue to the child or children,~~
40 ~~collectively, until every child dies, marries, or attains age 18. If~~

1 the spouse dies, either before or after the death of the member,
2 without either making the election or receiving any portion of the
3 death benefit, and no part of the death benefit had been paid to
4 any person, prior to the payment of any benefits, the legally
5 appointed guardian of the children shall make the election
6 provided for in subdivision (a) on behalf of the surviving
7 children as, in his or her judgment, may appear to be in their
8 interest and advantage, and the election so made shall be binding
9 and conclusive upon all parties in interest.

10 (e) Notwithstanding any other provisions of this section, the
11 benefits otherwise payable to the children of the member shall be
12 paid to the children through the age of 21 if the children remain
13 unmarried and are regularly enrolled as full-time students in an
14 accredited school as determined by the board.

15 SEC. 8. Section 31789.3 of the Government Code is amended
16 to read:

17 31789.3. (a) Upon the death of any person after retirement
18 and while receiving a retirement allowance from this system, or
19 any superseded system, there shall be paid to his or her estate or
20 to the beneficiary as he or she shall nominate by written
21 designation duly executed and filed with the board, an amount
22 determined by the board of supervisors to be provided from
23 contributions of the county or district. The board of supervisors
24 shall, by resolution adopted by majority vote, fix and determine
25 an amount that shall not exceed five thousand dollars (\$5,000).

26 (b) This section applies to every member who dies after this
27 section becomes operative whether he or she has retired before or
28 after the operative date or effective date of this section.

29 (c) The death benefit provided by this section shall be paid in
30 lieu of a payment under Section 31789 or 31789.1.

31 (d) The death benefit provided by this section may, at the
32 election of the board of supervisors, be provided through a group
33 term life insurance policy, if the cost of that policy is the same or
34 less than the cost to the county or district when compared to
35 other methods of providing the benefit. The cost of the current
36 death benefit may be established by determining the present
37 value of the death benefit by using the most current five year rate
38 of expenditure with the inclusion of a stop loss guarantee, to be
39 determined by the retirement system actuary. To this amount
40 may be added any administrative costs to be incurred by the

1 county, district, or retirement system that result from replacing
2 the existing funding plan with the group term life insurance
3 policy.

4 (e) This section shall not be operative in any county until such
5 time as the board of supervisors shall, by resolution adopted by
6 majority vote, make the provisions of this section applicable in
7 the county.

8 SEC. 9. Section 31789.5 of the Government Code is amended
9 to read:

10 31789.5. (a) Upon the death of any person after retirement
11 and while receiving a retirement allowance from this system, or
12 any superseded system, there shall be paid to his or her estate, or
13 to the beneficiary as he or she shall nominate by written
14 designation duly executed and filed with the board, an amount
15 determined by the board of supervisors. The board of supervisors
16 shall, by resolution adopted by majority vote, fix and determine
17 an amount that may not exceed five thousand dollars (\$5,000).

18 (b) This section applies to every member who dies after this
19 section becomes operative whether he or she has retired before or
20 after the operative date or effective date of this section.

21 (c) The death benefit provided by this section shall be paid in
22 lieu of a payment under Section 31789 or 31789.1 and may be
23 paid in part, from contributions of the county or district in
24 accordance with Section 31789, and in part, from surplus
25 earnings of the retirement system in accordance with Section
26 31789.1.

27 (d) The death benefit provided by this section may, at the
28 election of the board of retirement, be provided through a group
29 life insurance policy if the cost of that policy to the system is the
30 same or less than the cost to the system, county, or district of
31 other methods of providing the benefit. The cost of the current
32 death benefit may be established by determining the present
33 value of the death benefit by using the most current five year rate
34 of expenditure with the inclusion of a stop loss guarantee, to be
35 determined by the retirement system actuary. To this amount
36 may be added any administrative costs to be incurred by the
37 county, district, or retirement system that result from replacing
38 the existing funding plan with the group term life insurance
39 policy.

1 ~~(e) This section may not be operative in any county until the~~
2 ~~board of supervisors, by resolution adopted by a majority vote,~~
3 ~~makes this section applicable in the county and the board of~~
4 ~~retirement, by resolution adopted by a majority vote, determines~~
5 ~~that its portion of the cost of the benefits may be financed from~~
6 ~~surplus earnings of the retirement fund.~~

7 ~~(f) Upon adoption, by any county providing benefits pursuant~~
8 ~~to this section, of Article 5.5 (commencing with Section 31610),~~
9 ~~only that portion of those benefits that is paid from surplus~~
10 ~~earnings described in Section 31592.2 shall be paid, instead,~~
11 ~~from the Supplemental Retiree Benefits Reserve established~~
12 ~~pursuant to Section 31618.~~